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UNITED STATES DISTRICT COURT FOR  
SOUTHERN DISTRICT OF NEW YORK

ELAINE L. CHAO, Secretary of Labor,  
United States Department of Labor,

Plaintiff,

v.

Monair Khann, doing business as B & M Cosmetics

Defendant.

:  
: Civil Action

:  
: File No. Q8-CV-01583-DC

CONSENT JUDGMENT

Plaintiff, the Secretary, has filed her Complaint and defendant Monair Khann has appeared by Counsel, and an agreement was reached by all the parties to resolve all the issues raised in this action. Defendant acknowledges his responsibility pursuant to this agreement, and acknowledges that he will be subject to sanctions in contempt of this Court if he fails to comply with the provisions of this Judgment. Defendant, without admitting or denying the allegations of the Complaint, consents to the entry of this Judgment, and it is therefore upon motion of the attorneys for the Secretary and for good cause shown:

1. ORDERED that defendant, his employees, agents, and all persons acting or claiming to act in the defendants behalf and interest are permanently enjoined and restrained from violating the provisions of sections 6, 7, 11(c), 15(a)(2), 15(a)(3), and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. Section 201 et seq.), (the Act), in any manner, specifically including:

(1) Defendant shall not, contrary to Section 6 of the Act, pay to any of his employees who in any workweek are engaged in commerce or in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce, within

the meaning of the Act, wages at rates less than those which are now, or which in the future may become, applicable under Section 6 of the Act.

(2) Defendant shall pay employees at time and one-half their regular hourly rates for all hours worked over 40 per week, and shall not, contrary to Section 7 of the Act, employ any of his employees in any workweek for workweeks longer than the hours now, or which in the future become, applicable under Sections 7 and 15(a)(2) of the Act, unless the employee receives compensation in compliance with the Act.

(3) Defendant shall make, keep, and preserve accurate and complete records of his employees and of the wages, hours, and other conditions and practices of employment maintained by him as prescribed by the Regulations issued pursuant to Section 11(c) of the Act and found at 29 CFR Part 516.

(4) Defendant shall not discharge or take any retaliatory action against any employee because the employee engages in any of the following activities:

a. Discloses, or threatens to disclose, to a supervisor or to a public agency, any activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of the Act, or a rule or regulation promulgated pursuant to the Act;

b. Provides information to, or testifies before, any public agency or entity conducting an investigation, hearing or inquiry into any alleged violation of the Act, or a rule or regulation promulgated pursuant to the Act, by the employer or another employer with whom there is a business relationship;

c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of the Act, or a rule or regulation promulgated pursuant to the Act;

5. In the future, should the U. S. Department of Labor determine that the defendant has violated the provisions of the Act, written notice of such determination shall be sent to defendant's counsel and to defendant with an opportunity to cure the violation within 10 days prior to initiating an action in Federal Court; and it is further

II. ORDERED that the defendant is enjoined and restrained from withholding the payment of overtime compensation due their employees listed in exhibit A in the total amount of \$80,000. Payment of that sum shall be made in the installments in accordance with the schedule shown in Exhibit B, attached. Defendant shall pay all installments by delivering separate certified checks or bank checks payable to the order of "Wage and Hour-Labor", to:

U.S. Department of Labor  
ESA/ Wage & Hour Division  
Northeast Region  
Attn: Rita Gahagan  
The Curtis Center, Suite 850, West  
170 South Independence Mall West  
Philadelphia, PA 19106-3317

IV. And it is further ORDERED that in the event that any installment payment is not made as set forth in Exhibit B, and not cured as set forth in paragraph I above, the remaining installment payments shall become due immediately, and it is further

V. ORDERED that a copy of each certified check and cover letter when due as set forth in Exhibit A shall be simultaneously sent to District Director Philip Jacobson, U.S. Department of Labor, Wage Hour District Office, 26 Federal Plaza, Room 3700, New York, New York

10278, and Douglas Weiner, Esq., U.S. Department of Labor, Office of the Regional Solicitor, 201 Varick Street, Room 983, New York, New York 10014. The Secretary shall distribute the defendant's payments to the employees and former employees, or to their estates, in accord with the findings of the investigation.

Defendant shall provide to plaintiff the social security number and last known address of each employee or former employee listed in Exhibit A of this Judgment.

Any sums not distributed to the employees or former employees named herein, or to their personal representatives because of inability to locate the proper persons or because of such persons' refusal to accept such sums, shall be deposited with the Clerk of this Court who shall deposit such money with the Treasurer of the United States; and it is further

VI. ORDERED that neither defendant nor anyone on their behalf shall directly or indirectly solicit or accept the return or refusal of any sums paid under this Judgment; and it is further

VII. ORDERED that if the defendant fails to make any of the installment payments as set forth above, then the Court shall appoint John Braslow, Esq. as a Receiver. If John Braslow, Esq. is unavailable or declines to act as a Receiver, the plaintiff shall provide the Court with the names of potential Receivers. The Court may appoint a Receiver from those offered by the Secretary or may appoint another Receiver at its discretion. In the event a Receiver is appointed, it is further

VIII. ORDERED that defendants shall produce to the Court appointed Receiver all books and records and any other information the Receiver requires to carry out the provisions of this Judgment. In addition, the defendants shall submit to a sworn accounting by an independent

certified public accountant and/or the Receiver, and shall testify, if the accountant or Receiver so decides; and it is further

IX. ORDERED that all the expenses of the accountant or Receiver shall be borne solely by defendants; and it is further

X. ORDERED that if the Court appoints a Receiver, the Receiver shall serve until the payment of the monetary terms of this Judgment are satisfied; and it is further

XI. ORDERED that the Receiver shall have full authority to: collect the Defendant's assets and report his/her findings to the Court and the parties; to redeem and/or liquidate the defendants' assets and turn over the proceeds to the Secretary; if the asset is a debt that is due, collect it and turn over the proceeds to the Secretary; to analyze all indebtedness and where deemed appropriate seek restructuring; to analyze all transfers of the defendants' assets; to prevent waste or fraud; and to do all acts and take all measures necessary or proper for the efficient performance of the duties under this Judgment and Order; and it is further

XII. ORDERED that the defendant shall advise all their employees in Spanish and English of the employees' rights under the Fair Labor Standards Act, including the payment of minimum and overtime wages and the rights of employees to engage in activity protected by the Act without fear of retaliation. This advice to employees shall take place within 30 days of the entry of this Judgment on a workday; and it is further

XIII. ORDERED that defendant shall place posters provided by the Wage and Hour Division with information about the FLSA where employees may view them; and it is further

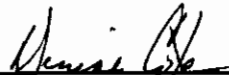
XIV. ORDERED that neither the commencement of this action nor the provisions of this Consent Judgment shall in any way affect, determine, or prejudice any and all legal rights of any employees or former employees of the defendant not listed in Exhibit A to file any action against

defendants under Section 16(b) of the Act, or likewise for any current or former employee listed in Exhibit A to file any action against defendant under Section 16(b) of the Act for any violations alleged to have occurred after November 1, 2006; and it is further

XV. ORDERED that each party will bear its own fees and other expenses incurred by

such party in connection with any stage of this proceeding.

SO ORDERED:

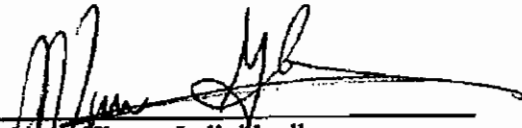
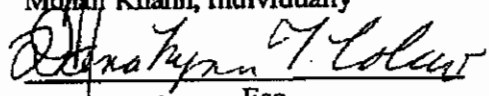
  
\_\_\_\_\_  
HONORABLE DENISE COTE  
UNITED STATES DISTRICT JUDGE

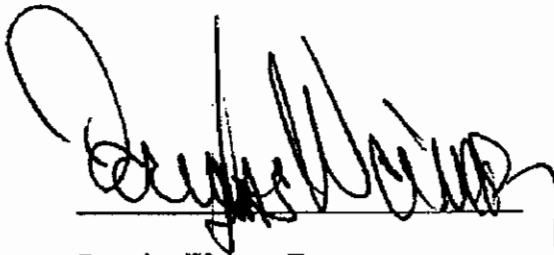
DATED:

New York, New York

*February 21, 2008*

Defendant has appeared by counsel, and hereby consents to the entry of this Judgment.

  
\_\_\_\_\_  
Monir Khann, Individually  
  
\_\_\_\_\_  
Dana Lynn Colao, Esq.  
Attorney for Defendant

  
\_\_\_\_\_  
Douglas Weiner, Esq.  
Senior Trial Attorney  
United States Department of Labor

STATE OF NEW YORK                    )  
  :SS:

COUNTY OF ~~KINGS~~ *New York*)

On the *23<sup>rd</sup>* day of *Jan.* 200*8*, before me personally appeared Monair Khann, to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

  
NOTARY PUBLIC

**STEPHEN E. ZIMMERMAN**  
Notary Public, State of New York  
Reg. No. 01219804735  
Qualified in Nassau County  
Commission Expires July 31st, 20*10*



**B M Cosmetics - Attachment A**

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First Name	Last Name	BWs Due
MARIA	ANTONIO	\$ 9,393.09
RAMON	BELLIARD	\$ 16,542.50
JOSEFA	CASTILLO	\$ 16,214.64
SHAILY	COLLADO	\$ 2,779.41
ANA	GOMEZ	\$ 10,814.72
LYDIA	GRANADO	\$ 11,220.88
WANDA	MARTINEZ	\$ 12,481.00
SOLANNY	ORTIZ	\$ 8,940.04
	TOTAL =	\$ 88,386.28

## U.S. DEPARTMENT OF LABOR

Installment Amortization Schedule  
Installment Agreement Data:02/01/2008

Case No: 1472385

Employer: BM Cosmetic

Beginning Payment Date:	02/01/2008	Ending Payment Date:	01/01/2009
Total BW Amount:	\$88,386.28	Current Interest Rate:	4.0 %
Initial Payment:	\$0.00	Number Of Payments:	12
		Pay Period:	Monthly

	EE Name / 3rd Party	Principal	Interest	Total Payment
Date Due: 02/01/2008				
	Maria Antonio	\$7,365.52	\$31.31	\$7,396.83
Date Due: 03/01/2008				
	Maria Antonio	\$2,027.57	\$6.76	\$2,034.33
	Ramon Belliard	\$5,337.95	\$110.28	\$5,448.23
Date Due: 04/01/2008				
	Ramon Belliard	\$7,365.52	\$37.35	\$7,402.87
Date Due: 05/01/2008				
	Ramon Belliard	\$3,839.03	\$12.80	\$3,851.83
	Josefa Castillo	\$3,526.49	\$216.20	\$3,742.69
Date Due: 06/01/2008				
	Josefa Castillo	\$7,365.52	\$42.29	\$7,407.81
Date Due: 07/01/2008				
	Josefa Castillo	\$5,322.63	\$17.74	\$5,340.37
	Shally Collado	\$2,042.89	\$55.59	\$2,098.48
Date Due: 08/01/2008				
	Shally Collado	\$736.52	\$2.46	\$738.98
	Ana Gomez	\$8,629.00	\$252.34	\$8,881.34
Date Due: 09/01/2008				
	Ana Gomez	\$4,185.72	\$13.95	\$4,199.67

EE Name / 3rd Party	Principal	Interest	Total Payment
Lydia Granado	\$3,179.80	\$299.22	\$3,479.02
<b>Date Due: 11/01/2008</b>			
Lydia Granado	\$7,365.52	\$28.80	\$7,392.32
<b>Date Due: 11/01/2008</b>			
Lydia Granado	\$675.56	\$2.25	\$677.81
Wanda Martinez	\$6,689.96	\$416.03	\$7,105.99
<b>Date Due: 11/01/2008</b>			
Wanda Martinez	\$5,791.04	\$19.30	\$5,810.34
Solanny Ortiz	\$1,574.48	\$327.80	\$1,902.28
<b>Date Due: 11/01/2008</b>			
Solanny Ortiz	\$7,365.56	\$24.55	\$7,390.11
<b>Date Due: 11/01/2008</b>			
	<u>\$88,388.28</u>	<u>\$1,915.02</u>	<u>\$90,301.30</u>

**United States District Court  
Southern District of New York  
Office of the Clerk  
U.S. Courthouse  
500 Pearl Street, New York, N.Y. 10007-1213**

**Date:**

**In Re:**

-v-

**Case #:**

( )

Dear Litigant,

Enclosed is a copy of the judgment entered in your case.

Your attention is directed to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, which requires that if you wish to appeal the judgment in your case, you must file a notice of appeal within 30 days of the date of entry of the judgment (60 days if the United States or an officer or agency of the United States is a party).

If you wish to appeal the judgment but for any reason you are unable to file your notice of appeal within the required time, you may make a motion for an extension of time in accordance with the provision of Fed. R. App. P. 4(a)(5). That rule requires you to show "excusable neglect" or "good cause" for your failure to file your notice of appeal within the time allowed. Any such motion must first be served upon the other parties and then filed with the Pro Se Office no later than 60 days from the date of entry of the judgment (90 days if the United States or an officer or agency of the United States is a party).

The enclosed Forms 1, 2 and 3 cover some common situations, and you may choose to use one of them if appropriate to your circumstances.

The Filing fee for a notice of appeal is \$5.00 and the appellate docketing fee is \$450.00 payable to the "Clerk of the Court, USDC, SDNY" by certified check, money order or cash. No personal checks are accepted.

**J. Michael McMahon, Clerk of Court**

by: \_\_\_\_\_

, Deputy Clerk

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

-V-

## NOTICE OF APPEAL

civ. ( )

Notice is hereby given that

(party)

hereby appeals to the United States Court of Appeals for the Second Circuit from the Judgment [describe it]

entered in this action on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
(day) (month) (year)

(Signature)

(Address)

(City, State and Zip Code)

Date: \_\_\_\_\_

( ) \_\_\_\_\_ - \_\_\_\_\_  
(Telephone Number)

**Note:** You may use this form to take an appeal provided that it is received by the office of the Clerk of the District Court within 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

**FORM 1**

**United States District Court  
Southern District of New York  
Office of the Clerk  
U.S. Courthouse  
500 Pearl Street, New York, N.Y. 10007-1213**

-V-

**MOTION FOR EXTENSION OF TIME  
TO FILE A NOTICE OF APPEAL**

civ. ( )

Pursuant to Fed. R. App. P. 4(a)(5), \_\_\_\_\_ respectfully  
(party)  
requests leave to file the within notice of appeal out of time. \_\_\_\_\_  
(party)  
desires to appeal the judgment in this action entered on \_\_\_\_\_ but failed to file a  
(day)  
notice of appeal within the required number of days because:

[Explain here the "excusable neglect" or "good cause" which led to your failure to file a notice of appeal within the required number of days.]

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State and Zip Code)

Date: \_\_\_\_\_

( ) \_\_\_\_\_  
(Telephone Number)

**Note:** You may use this form, together with a copy of Form 1, if you are seeking to appeal a judgment and did not file a copy of Form 1 within the required time. If you follow this procedure, these forms must be received in the office of the Clerk of the District Court no later than 60 days of the date which the judgment was entered (90 days if the United States or an officer or agency of the United States is a party).

**APPEAL FORMS**

Docket Support Unit

Revised: April 9, 2006

**FORM 2**

**United States District Court  
Southern District of New York  
Office of the Clerk  
U.S. Courthouse  
500 Pearl Street, New York, N.Y. 10007-1213**

-V-

**NOTICE OF APPEAL  
AND  
MOTION FOR EXTENSION OF TIME**

civ. ( )

1. Notice is hereby given that \_\_\_\_\_ hereby appeals to  
(party)  
the United States Court of Appeals for the Second Circuit from the judgment entered on \_\_\_\_\_.  
[Give a description of the judgment]

2. In the event that this form was not received in the Clerk's office within the required time  
\_\_\_\_\_ respectfully requests the court to grant an extension of time in  
(party)  
accordance with Fed. R. App. P. 4(a)(5).

a. In support of this request, \_\_\_\_\_ states that  
(party)  
this Court's judgment was received on \_\_\_\_\_ and that this form was mailed to the  
(date)  
court on \_\_\_\_\_  
(date)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State and Zip Code)

Date: \_\_\_\_\_

( ) \_\_\_\_\_  
(Telephone Number)

**Note:** You may use this form if you are mailing your notice of appeal and are not sure the Clerk of the District Court will receive it within the 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

**APPEAL FORMS**

Docket Support Unit

Revised: April 9, 2006

**FORM 3**

**United States District Court  
Southern District of New York  
Office of the Clerk  
U.S. Courthouse  
500 Pearl Street, New York, N.Y. 10007-1213**

-----X  
-V-  
-----X

**AFFIRMATION OF SERVICE**

civ. ( )

I, \_\_\_\_\_, declare under penalty of perjury that I have  
served a copy of the attached \_\_\_\_\_

upon \_\_\_\_\_

whose address is: \_\_\_\_\_

Date: \_\_\_\_\_  
New York, New York

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State and Zip Code)

**APPEAL FORMS**

Docket Support Unit

Revised: April 9, 2006